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Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo

I. Introduction and Mission priorities

1. The present report is submitted pursuant to Security Council resolution 1244 (1999), by which the Council decided to establish the United Nations Interim Administration Mission in Kosovo (UNMIK) and requested that I report at regular intervals on the implementation of its mandate. It covers the activities of UNMIK, and developments related thereto, from 16 July to 15 October 2011.

2. The Mission's priorities remain unchanged: to promote security, stability and respect for human rights in Kosovo and in the region. UNMIK continues to further these goals by engaging with Pristina and Belgrade, the communities in Kosovo, and regional and international actors. The Organization for Security and Cooperation in Europe (OSCE) and the Kosovo Force (KFOR) have continued to perform their important roles within the framework of Security Council resolution 1244 (1999). In line with the Security Council presidential statement of 26 November 2008 (S/PRST/2008/44) and my report of 24 November 2008 (S/2008/692), the European Union Rule of Law Mission (EULEX) is operating under the overall authority and within the status-neutral framework of the United Nations. OSCE, KFOR and EULEX have continued to cooperate and coordinate with UNMIK. The United Nations agencies, funds and programmes also continue to work closely with UNMIK.

II. Northern Kosovo

3. The situation on the ground in northern Kosovo overshadowed all other political developments in Kosovo during the reporting period. Following the cancellation of the session of 20 July of the dialogue facilitated by the European Union, the Kosovo authorities imposed an embargo on imports from Serbia as a reciprocal measure in response to the treatment by Serbia of goods originating in Kosovo; Serbia had refused to admit goods originating in Kosovo since 2008, as it had not recognized the Kosovo Customs stamps. On 25 July, the Kosovo authorities attempted to deploy Kosovo Police Regional Operations Special Units (ROSU) to the two authorized boundary/border crossings in northern Kosovo, Gate 1 (Jarinjë/Jarinje) and Gate 31 (Bërnjak/Brnjak), with the stated aim to enforce the embargo throughout Kosovo and to establish law and order. This attempt was not

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coordinated with the international presences or the communities on the ground. Prior to 25 July, EULEX was in charge of the gates and exercised partial control by recording commercial traffic and scanning documents; the information gained was shared with Kosovo police and Customs, as well as with the Serbian authorities.

4. In reaction to the actions of Pristina, local Kosovo Serbs, who continue to reject the authority of the Kosovo institutions, erected roadblocks along the routes leading to the two gates, effectively blocking the ROSU movements. KFOR intervened to facilitate the withdrawal of the Units from northern Kosovo but, tragically, a gunfight erupted during the ROSU movement, resulting in the death of a ROSU officer near Zubin Potok on 26 July. A EULEX investigation into the killing led to the issuance of arrest warrants for six individuals. KFOR supported the deployment of Kosovo police and Customs officers to the gates, which the local Kosovo Serb community vehemently opposed. On 27 July, while Serb demonstrators gathered at the crossing point, some individuals set fire to the Customs facilities at Gate 1. Members of the Serb community also established roadblocks on all major roads in northern Kosovo, insisting that they would maintain them until Gates 1 and 31 were returned to the *status quo ante* 25 July. In response to the violence, KFOR temporarily closed the two gates and declared them "military restricted areas". On 5 August, the KFOR Commander mediated an 11-point "common understanding" between Belgrade and Pristina, which opened the way for the lessening of tensions, despite different interpretations by the two sides. The understanding, which involved KFOR remaining in control of the gates until the resumption of the European Union-facilitated dialogue and with a deadline of 15 September, led to a gradual, although not full, de-escalation of tensions in northern Kosovo and the removal of almost all roadblocks. Vehicles weighing over 3.5 tons carrying medical supplies or humanitarian goods were allowed to pass through Gates 1 and 31. The same principle was applied for goods directed to sites of the Serbian Orthodox Church.

5. At the dialogue session held in Brussels on 2 September, Serbia agreed to recognize the Kosovo Customs stamps, thereby enabling the resumption of mutual trade flows. Immediately thereafter, the Kosovo authorities began announcing that they intended to establish full border and Customs control functions at the gates, after the expiration of the deadline of the KFOR regime at the gates and as an implementation measure flowing from the agreement reached on 2 September. Indeed, on 16 September, in accordance with an operational plan prepared by Pristina and coordinated with EULEX and KFOR, EULEX assumed control of both gates and ensured the presence of one Kosovo Customs officer, in an observer capacity, and two Kosovo border police officers at each.

6. However, the Kosovo Serbs in the north reinforced their roadblocks at Gates 1 and 31 and erected additional roadblocks along other routes in order to protest the deployment of Kosovo Customs officers at the gates, and what the protestors alleged was the non-status-neutral stance of KFOR and EULEX. While the northern gates remained effectively closed by the roadblocks, multiple bypass and alternate routes were used by local Kosovo Serbs circumventing the two crossings authorized by UNMIK in 2001.

7. On 27 September, protesters at Gate 1 attempted to remove barbed wire laid by KFOR to protect a EULEX vehicle checkpoint at a bypass road used by the Kosovo Serbs. KFOR responded with tear gas and rubber bullets. KFOR reported that in the

ensuing melee, the protestors hurled "pipe bombs" at the soldiers and, when a protester attempted to seize a KFOR soldier's weapon, a second soldier used live ammunition and shot the assailant in the leg. Nine KFOR soldiers incurred injuries ranging from light to superficial. According to the manager of the hospital in northern Mitrovica, seven patients were admitted with gunshot injuries incurred in the clash, while 19 protesters who sustained minor injuries caused by rubber bullets were treated in local health facilities and 92 people were reportedly treated for exposure to tear gas. One of the Kosovo Serb ambulances transporting the injured was hit by a bullet that caused no additional injuries.

8. In the aftermath of the clashes, the Kosovo authorities issued a press release stating their commitment to the rule of law and freedom of movement in northern Kosovo, "in full compliance with the Constitution of the Republic of Kosovo" and adding that the "violent reactions that occurred against KFOR soldiers are reactions of people who are against the rule of law, identified with criminal structures, smuggling and organized crime". The President of Serbia, Boris Tadić, appealed for calm, as "preserving the peace and [maintaining] the dialogue is the only way to solve problems", and called on KFOR to exercise maximum restraint.

9. On 30 September 2011, I received a letter from the Permanent Representative of Serbia to the United Nations, requesting an urgent investigation by the United Nations "to establish all the relevant facts in connection with the use of armed force against civilians on 27 September", which I transmitted to the Security Council. The Secretary-General of the North Atlantic Treaty Organization has declared that KFOR acted in conformity with its mandate and that no special investigation is warranted.

10. These events have contributed to a significant deterioration in the security situation in northern Kosovo, a polarization of positions and a widening of the gap between the communities in northern Kosovo and the institutions in Pristina. UNMIK continues to act as an impartial mediator and is perceived as such by all stakeholders. UNMIK has actively engaged all parties at all levels, urging them to exercise restraint and emphasizing the need for dialogue in order to find sustainable solutions to disputes and long-standing issues related to northern Kosovo. My Acting Special Representative has urged all parties to take the measures necessary to prevent any further violence. He has also encouraged EULEX and KFOR to engage actively with the northern Kosovo Serbs to increase coordination and information-sharing and build confidence in the communities. As a result, weekly coordination meetings were initiated, including with northern Kosovo Serb representatives, KFOR, EULEX, OSCE and UNMIK. While, as at the date of the present report, 16 barricades remained in place in northern Kosovo, the four Belgrade-sponsored mayors of the northern Kosovo Serb municipalities have requested a meeting with the Commander of KFOR, which UNMIK is facilitating.

11. In a separate development in northern Kosovo, on 8 August the Trepça/north enterprise received information that the Tax Administration of Kosovo had seized funds of the enterprise held in a bank operating in Kosovo, allegedly because taxes were owed to the Tax Administration. As the seizure was carried out in violation of the applicable law in Kosovo, UNMIK has appealed to the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency-related matters, which consists mainly of EULEX judges, for an injunction reversing the seizure of the bank accounts concerned and ordering the Tax Administration to return all seized funds to

Trepça/north. The ongoing seizure of the enterprise's bank accounts may cause irreparable damage to the enterprise and does not allow it to pay salaries to its more than 3,600 employees. Unfortunately, despite the urgent request made by UNMIK, to date no decision has been rendered by the Special Chamber.

12. On 20 September 2011, 20 trucks loaded with concentrates from Trepça/north were seized by the Kosovo police. The truck drivers were detained by the police for allegedly entering Kosovo illegally, having crossed at unofficial boundary/border crossings. The truck drivers were released after a two-day incarceration upon payment of a fine. Kosovo police claim to have found irregularities in the registration of 3 of the 20 trucks and have sent requests for verification through the UNMIK INTERPOL Office and the UNMIK International Police Liaison Office to Belgrade. All trucks remain in the custody of the Kosovo police, with responses from Belgrade still pending. That action prevented Trepça/north from receiving revenues from its mining operations and will further negatively affect its ability to meet its payroll obligations.

III. Engagement between Pristina and Belgrade and practical arrangements

13. The process of the European Union-facilitated dialogue continued during the reporting period, with interruptions and varying success. The meeting foreseen for 20 July was cancelled when, following discussion with both parties, the European Union facilitator concluded that no agreement would materialize on issues that he had considered close to resolution, including the issue of the Kosovo Customs stamps, and that holding the meeting at that time would be counterproductive. In the absence of an agreement on the Customs stamps, the Kosovo authorities began to implement the embargo against Serbian goods on 22 July. The Serbian authorities reacted to the embargo by initiating a dispute settlement procedure within the framework of the Central European Free Trade Agreement (CEFTA).

14. On 2 September, the resumption of the dialogue culminated in agreements on Customs stamps and the documents accompanying shipments of goods. Accordingly, on 8 September, at a CEFTA meeting facilitated by UNMIK, representatives from Belgrade and Pristina informed the Special Joint Committee that the issue had been resolved in the dialogue and that trade would soon return to normal. This agreement marks the end of a long period of obstacles to trade flows between the sides. As a result of the agreement of 2 September, trade flows appear to have resumed during the month of September, except through Gates 1 and 31 in northern Kosovo.

15. Agreements were also reached on the issue of cadastre records. The parties agreed to establish a fully reliable cadastre in Kosovo, in order to provide legal certainty and protect the rights of people with legitimate claims to property. The reconciliation of cadastre records includes transmittal of cadastre information, as well as a comparison of existing records, and involves a technical agency and the good offices of the Special Representative of the European Union. The process will be monitored by a tripartite implementation group chaired by the European Union and involving cadastre experts from the two parties. Discrepancies in cadastre information will be resolved through an adjudication mechanism.

16. Further discussions on telecommunication, energy and university diplomas have not led to agreement, although both parties have expressed their commitment to look further into the technical and political aspects of the issues.

17. In spite of the agreements reached at the beginning of September and the positive developments that followed in the area of trade, the subsequent dialogue session, scheduled for 27 and 28 September, did not take place. The Serbian delegation announced that it was not prepared to engage in talks on the previously agreed agenda unless the developments that had occurred at the northern gates on 27 September and their aftermath were also discussed. Since then, the dialogue process has remained frozen and efforts by the European Union facilitator to reach an agreement with the sides on the conditions for its resumption have yet to produce results. Since UNMIK is not present at the European Union-facilitated dialogue, it is not in a position to resolve disputes on what was actually agreed at any meeting.

18. Complementing the support provided to the formal dialogue process, UNMIK representatives have also held regular meetings with the Kosovo authorities, both at the political and working levels. My Acting Special Representative continued to hold regular meetings with the political leadership in Belgrade, in August and September, in close coordination with my Representative in Belgrade.

19. During the reporting period, Belgrade and Pristina continued to cooperate on the issue of missing persons. The Belgrade-Pristina Working Group on Missing Persons, chaired by the International Committee of the Red Cross (ICRC), held its first meeting after a hiatus of more than six months on 15 July. During the period under review, the remains of seven additional individuals were identified, bringing ICRC estimates of those still missing as at 29 September to 1,802. The problem of missing persons remains a major challenge to the efforts to bring about reconciliation between the communities and continues to disrupt the returns process.

IV. Security

20. The overall security situation was negatively affected by the attempt on 25 July by the Kosovo authorities to assert control over Gates 1 and 31. Although the rise in tensions in the north did not lead to the overall destabilization of the security situation in Kosovo south of the Ibër/Ibar, the number of violent incidents affecting the Serb population in that area increased following the July events.

21. There was an increase of 24 per cent in incidents affecting minority communities throughout Kosovo during the reporting period compared with the period from 16 July to 15 October 2010, with 151 incidents recorded, of which 38 occurred in the north. The incidents included 13 cases of vandalism on Serbian Orthodox churches and cemeteries and 13 cases of stoning of vehicles with Serbian registration plates passing through Kosovo Albanian-populated areas. There was a rise in damage to unoccupied houses belonging to Kosovo Serbs (63 reported cases). The most significant incidents occurred in the ethnically mixed village of Cërnicë/Cernica (Gjilan/Gnjilane municipality), where 8 such houses were damaged, and in the village of Levoshe/Ljevoša (Pejë/Peć municipality), where 30 unoccupied Kosovo Serb houses were burglarized.

22. The cases of burglaries of Kosovo Serb houses and thefts of Kosovo Serb property, such as machinery for agriculture and cattle, constituted a significant part

of all incidents (47 cases reported). The most frequent incidents were reported at the Kosovo Serb returnee sites in Svinjarë/Svinjare and Bablak/Babljak villages. In reaction to all those cases, OSCE issued a public statement calling for institutional action to prevent their repetition. While the above-mentioned cases could be qualified as low-level incidents, the contamination of the well supplying local residents with potable water in the Kosovo Serbian village of Oprashkë/Opraške, reported on 9 August, represents a far more serious incident.

23. The most serious incident affecting minority communities was the murder of a Kosovo Serbian man and the wounding of his son in a shooting outside a restaurant in the predominantly Kosovo Albanian village of Xërxë/Zrze (Rahovec/Orahovac municipality) on 2 October. The investigation is ongoing.

24. Among the positive trends of the period was the Kosovo authorities' increased efforts to fight organized crime, notably through coordinated actions against human trafficking, smuggling, money-laundering and drug trafficking. Another positive development was the decrease in the number of murders (by 50 per cent), bomb threats (by 16 per cent) and armed robberies (by 8 per cent). However, even though the period also saw a decrease of 26 per cent in the number of shooting incidents, more than 40 people were injured as a result of gunfire. The reporting period was also marked by a decrease in the number of incidents affecting the international presences and their assets.

V. Rule of law

25. UNMIK continued to monitor activities and exercise some responsibilities in the area of the rule of law, as well as to cooperate at the technical level with the Ministry of Justice and the Ministry of Internal Affairs of Kosovo and the Ministry of Justice of Serbia. UNMIK also continued to facilitate communications between the Serbian authorities and non-recognizing States and the Ministry of Justice of Kosovo, including with regard to receiving and forwarding requests for mutual legal assistance.

26. The impasse between the Ministry of Justice of Kosovo and the Ministry of Justice of Serbia on mutual legal assistance persisted, with the Kosovo Ministry not processing any documents from the Serbian Ministry received through UNMIK and the Serbian Ministry not processing any documents received directly from the Kosovo Ministry. UNMIK remains engaged in discussions to address the situation, including with EULEX. On 12 August, EULEX signed a technical arrangement on mutual legal assistance with the Kosovo Ministry of Justice. Under the terms of the arrangement, EULEX assumes the responsibility currently borne by UNMIK to facilitate the transmission of requests for mutual legal assistance between non-recognizing States and the Kosovo Ministry of Justice. UNMIK supports the EULEX initiative, and, pending the conclusion of ad hoc agreements between EULEX and non-recognizing States, UNMIK will continue to facilitate mutual legal assistance requests. During the reporting period, UNMIK forwarded 19 responses from the Serbian Ministry of Justice to the Kosovo Ministry of Justice, which have been filed but not processed. During the same period, UNMIK forwarded 46 requests for service-of-court documents from the Special Chamber of the Supreme Court on Kosovo Trust Agency-related matters to the Serbian Ministry of Justice; the requests are being processed.

27. UNMIK also facilitated the interaction of Kosovo with INTERPOL and its member States on a daily basis. Eighteen requests for the issuance of international wanted notices have been received; UNMIK has facilitated the issuance of 7 INTERPOL "Red Notices", while the remaining 11 requests are awaiting the submission of required documentation from EULEX or the local judiciary.

28. UNMIK continued to provide document-certification services, both to Kosovo residents and at the request of non-recognizing States, primarily for the certification of civil status, pension and academic documents.

29. On 29 August, EULEX announced that Clint Williamson of the United States of America had been appointed lead prosecutor of its Special Investigative Task Force, which was taking over the preliminary investigation launched by EULEX on 27 January 2011 into the allegations contained in the report of the Special Rapporteur of the Council of Europe, Dick Marty, entitled "Investigation of allegations of inhuman treatment of people and illicit trafficking in human organs in Kosovo". Mr. Williamson was expected to assume his duties on 17 October. Belgrade remains of the view that an independent body, with investigative powers in Albania and beyond, should be established by the Security Council to lead the investigation.

30. On 2 September, a EULEX judge confirmed the indictment of Fatmir Limaj, a member of the Kosovo Assembly and Vice-President of the Democratic Party of Kosovo (PDK) and nine other former members of the Kosovo Liberation Army for various war crimes allegedly committed against the civilian population and prisoners of war, both Kosovo Serbs and Kosovo Albanians, in 1999. The indictment, which had been filed on 25 July, was followed by a request to the Constitutional Court to clarify the issue of the immunity of deputies of the Assembly. On 20 September, the Constitutional Court issued its judgement, according to which "deputies are not immune from criminal prosecution for actions taken or decisions made outside the scope of their responsibilities". Consequently, the EULEX judge sentenced Fatmir Limaj to house detention for one month. On 28 September, Agim Zogaj, the main witness in the case, who had been a EULEX-protected witness, was found dead in a park in Duisberg, Germany. In a statement issued on 21 September, Duisberg police said that an initial investigation had found that Mr. Zogaj had committed suicide, and that further investigations are under way.

31. On 31 August, the Assembly of Kosovo adopted the Law on the Special Chamber of the Supreme Court of Kosovo on Privatization Agency-Related Matters and the Law on the Privatization Agency of Kosovo. On 22 September, the Assembly also adopted the Law on the Reorganization of Certain Enterprises and their Assets. As noted in my previous report, there are serious concerns that this new legislation will not only curtail EULEX involvement in the judicial oversight of privatization, but will also severely weaken the protection of privatization funds and expose the funds to the possibility of improper use.

VI. Communities, returns and reconciliation

32. The Office of the United Nations High Commissioner for Refugees (UNHCR) reported 220 voluntary returns by members of minorities between July and September, bringing the total of such returns from January to September 2011 to 822 persons. Of the 220 returnees, approximately 44 per cent were from the Kosovo

Roma, Ashkali and Egyptian communities, 36 per cent were Kosovo Serbs, 13 per cent were Kosovo Goranis and 7 per cent were Kosovo Bosniaks. One person was a Kosovo Montenegrin. The total number of voluntary minority returns from January 2000 to September 2011 is 22,930. The pace of the returns remains markedly slow. Compared with the period from January to September 2010, UNHCR statistics showed a significant drop (of 768) in the number of individual voluntary minority returns. The Ministry of Communities and Returns of Kosovo and UNHCR have attributed the slump primarily to fewer housing reconstruction projects.

33. In July and August, UNHCR in cooperation with municipal authorities and the Danish Refugee Council, organized 15 go-and-see visits for 151 displaced persons from Montenegro, Serbia, the former Yugoslav Republic of Macedonia and Kosovo, as well as 7 go-and-inform visits to Montenegro, for the benefit of 225 displaced persons from Kosovo.

34. Opposition to the return of displaced persons from receiving communities remained largely isolated. In response to such opposition, the relevant municipal authorities have adopted a negotiated approach involving dialogue with the receiving communities and promised civic improvements to the communities. Accordingly, the municipal authorities in Klinë/Klina have made progress in diffusing opposition to the return of Kosovo Serb displaced persons to Budisavc/Budisavci and Drenovc/Drenovac villages. Where objections to returns have been based on allegations that some returnees had committed war crimes during the conflict, the municipal authorities have encouraged recourse to legal action.

35. Following the completion in October 2010 of the first phase of the "return and reintegration in Kosovo" project, implemented by the United Nations Development Programme and financed by the European Commission, the Kosovo authorities and other donors, the second phase, implemented by the Danish Refugee Council, has now also drawn to a close. The International Organization for Migration was selected to implement a third phase of the project in the municipalities of Shtërpcë/Štrpce, Partesh/Parteš, Prizren/Prizren, Suharekë/Suva Reka and Novobërdë/Novo Brdo. However, with winter approaching, construction is expected to commence only in 2012. The gap in construction of housing in 2011, due to the lengthy tendering and approval process between project phases, has led to a sharp decrease in the number of voluntary minority returns, compared with the same period in 2010. Unforeseen cuts to the budget of the Ministry of Community and Returns pose additional challenges to the 2011 returns process.

36. The Kosovo authorities have allocated €3.5 million of their 2011 budget to support the reintegration of forcibly repatriated persons, and are seeking additional funds from the international community. In addition, the Ministry of Internal Affairs of Kosovo has urged the municipalities that have yet to do so to establish municipal offices for communities and returns, as this structure remains the nucleus for the implementation at the local level of the government's reintegration strategy. Nevertheless, in its September reintegration policy assessment report, the OSCE Mission in Kosovo noted that, despite tangible progress by the Kosovo institutions in policy development and the establishment of institutional mechanisms for the reintegration of forced returnees, "the implementation of the government's Revised Strategy for the Reintegration of Repatriated Persons continues to lag behind". In its report, the Mission found that poor cooperation between central and local level institutions, coupled with deficiencies in the allocation of funds, meant that

repatriated persons continued to face difficulties in accessing civil registration services, housing, health care, employment and education.

37. These developments are taking place as an increasing number of people are being forcibly returned to Kosovo, mainly from Western European countries. From January to September 2011, 1,769 individuals were forcibly returned, including 440 members of non-majority communities. The large number of forced returns is placing an additional burden on many municipalities and affecting their ability to accommodate voluntary returns.

38. Several municipalities made commitments to improve the infrastructure in areas inhabited by minority communities. In Shtërpcë/Štrpce, municipal authorities allocated 33 per cent of their €560,000 budget for capital investment to infrastructure projects in the minority communities. Vushtrri/Vučitrn municipality allocated €50,000 for improving the infrastructure in minority areas. The recently created municipality of Graçanicë/Gračanica, predominantly inhabited by Kosovo Serbs, allocated €92,000 for the construction of a primary school for the Kosovo Albanian children in Sushicë/Sušica village and construction of the school has begun.

39. Pristina's embargo on Serbian products had a ripple effect on the socio-economic conditions of the Serb community in Kosovo. The embargo, which came into effect on 25 July, created a shortage of medicines and other medical supplies in the Kosovo Serb health centres and of school books and other education materials in Kosovo Serb schools. UNMIK, in its facilitation role, worked with local communities to find solutions to these issues.

40. Unemployment remains a key socio-economic problem in Kosovo, with dire implications for the integration of Kosovo Serbs and other minorities. In addition, the non-recognition by some Kosovo institutions of diplomas and certificates issued after 1999 by Serb educational bodies in Kosovo further hampers employment opportunities for Kosovo Serbs.

VII. Cultural and religious heritage

41. Several important Serbian Orthodox Church events were held during the reporting period. On 28 August, hundreds of worshippers, including pilgrims from Serbia, celebrated Orthodox Assumption Day in religious events throughout Kosovo. On 4 September, the new Vicar Bishop of the Serbian Patriarch was installed at the Peć Patriarchate. The Serbian Orthodox Church Theological Seminary in Prizren reopened on 19 September, 12 years after having moved its operations to Niš. On 25 September, the newly refurbished Church of the Assumption of the Virgin Mary in Gjakovë/Đakovica was consecrated before a congregation of some 100 worshippers.

42. While a number of incidents targeting Serbian Orthodox Church properties, ranging from thefts at church premises to the stoning of buses and desecration of cemeteries, were reported during the period under review some municipalities launched projects to preserve the heritage of the Church, including the cleaning of Orthodox cemeteries in Pejë/Peć, the refurbishment of the Sveta Katarina church in Fushë Kosovë/Kosovo Polje municipality and the creation of new Orthodox cemeteries in Novobërdë/Novo Brdo municipality.

43. UNMIK continued to facilitate the work of the Reconstruction Implementation Commission on the reconstruction of cultural and religious heritage sites damaged or destroyed during the violence of March 2004. The Commission convened on 26 September to review ongoing conservation works in Prizren and Pejë/Peć. The Serbian Orthodox Church and the Institute for the Protection of Cultural Monuments in Belgrade strongly supported the retention of the Commission as an instrument for overseeing the reconstruction and restoration of churches of the Serbian Orthodox Church in Kosovo.

44. During the reporting period UNMIK also facilitated the activities of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Kosovo. At the request of UNESCO, UNMIK engaged with local authorities and the Serbian Orthodox Church to ensure that the construction of a water pumping station near the Peć Patriarchate, a UNESCO World Heritage Site, did not obstruct the view of the Patriarchate. Subsequently, the Mayor of Pejë/Peć visited the Patriarchate to discuss the issue.

45. The draft laws on the cultural heritage of the village of Hoçë e Madhe/Velika Hoča, in Rahovec/Orahovac municipality, and of the historic centre of Prizren are being reviewed after a first reading in the Assembly of Kosovo. Both draft laws face strong opposition by the municipal authorities of Rahovec/Orahovac and Prizren, as well as by Kosovo Albanian civil society organizations, which consider them discriminatory vis-à-vis the Kosovo Albanian community.

46. UNMIK continued monitoring the security arrangements provided by KFOR at the Visoki Dečani and Dević monasteries, as well as at the Peć Patriarchate. Although there were some minor thefts, no significant incidents occurred at other Orthodox patrimonial sites currently under the protection of the Kosovo police.

VIII. Human rights

47. On 25 August, the Kosovo authorities approved a programme against domestic violence and an action plan for the period from 2011 to 2014. The programme addresses the lack of cooperation among institutions dealing with domestic violence, the low level of capacity among the main stakeholders, the gaps in the referral system and the lack of the infrastructure required to support victims. Apart from seeking to establish effective mechanisms for the prevention of domestic violence and the protection of victims, the programme also focuses on the rehabilitation and integration of victims and perpetrators of domestic violence.

48. In September 2011, in an effort to increase the identification of victims of trafficking in human beings and the provision of assistance to victims of domestic violence, the anti-trafficking and domestic violence helpline, operated by the Prosecutor's Office, was re-established. The OSCE Mission in Kosovo provided support to train the operators of the helpline.

49. Although required to do so by law, the government of Kosovo has not provided quarters for the Ombudsperson Institution, which has been obliged to rent space in a private building. The Institution was forced to move to a new location owing to the privatization of the previous location and the new location is not easily accessible by the public. On 7 October 2011, the Assembly of Kosovo appointed five Deputy Ombudspersons (three Kosovo Albanians, one Kosovo Serb and one

Kosovo Turk; four men and one woman) representing all Kosovo communities, after a delay of nearly two years. This was the only step taken by the Assembly thus far to address the difficulties faced by the Institution that were outlined in the special report of the Ombudsperson to the President of the Assembly of June 2011.

50. On 6 October, the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment published a report in which it expressed particular concern about the treatment of persons in Kosovo prisons and pretrial detention centres, including concerns about the health care provided to prisoners and the treatment of juveniles and psychiatric or social welfare patients. The Committee highlighted a persistent problem of ill-treatment by police and prison personnel, as well as concerns about psychiatric patients being deprived of liberty without benefit of legal safeguards. In Kosovo, the application of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment is based on a 2004 agreement between UNMIK and the Council of Europe.

IX. External representation and regional cooperation

51. During the reporting period, UNMIK facilitated the participation of Kosovo representatives in numerous regional meetings, at various levels and on a variety of subject areas, including aviation, energy, justice and home affairs and agriculture, within the framework, for example, of CEFTA, the Energy Community, the European Council Technical Support Task Force for the European Union-led dialogue process, the Regional Cooperation Council Board and the Steering Committee of the South-East Europe Transport Observatory.

52. UNMIK played an important role within the context of the 2011 UNMIK/Kosovo CEFTA chairmanship in the dispute settlement procedures called for by Serbia in response to the embargo imposed by Kosovo on Serbian imports within the CEFTA mechanism. On 3 and 4 October, UNMIK attended the European Union-Western Balkans Ministerial Forum on Justice and Home Affairs held in Ohrid, the former Yugoslav Republic of Macedonia, which was also attended by the Minister and Deputy Minister of Justice and the Minister of Internal Affairs of Kosovo. The Forum was organized by the Polish Presidency of the European Union; UNMIK made statements on the fight against organized crime, including trafficking in human beings, and migration.

X. Observations

53. The developments in northern Kosovo during the reporting period serve as a strong reminder that the underlying, unresolved issues constitute a threat to the region's peace and stability. I am concerned not only about the deterioration of the security situation on the ground as a result of the recent developments, but also about the deterioration of inter-ethnic relations throughout Kosovo, the polarization of political positions and the widening of the gap between the communities north and south of the Ibar River. I am of the view that, as long as issues such as the situation at Gates 1 and 31 remain unresolved, and as long as rule-of-law issues remain entangled with positions on status, the international community and the people on the ground will continue to face the risk of an escalation of tensions and outbreak of violence, which keeps all sides hostage to an uncertain future.

54. Throughout this period of heightened tensions in northern Kosovo, UNMIK has continued to work closely with all sides to facilitate communication, avert new crises and identify ways forward with the aim of safeguarding security and peace throughout Kosovo. We also expect that all the other international presences in Kosovo will discharge their mandated duties accordingly. Communication and cooperation between all the international presences operating within the framework of Security Council resolution 1244 (1999), namely UNMIK, OSCE, EULEX and KFOR, should be strengthened at the operational and strategic levels in order to maximize the impact of their common efforts to maintain peace and stability on the ground. In this regard, I would also note that KFOR will maintain its responsibility to ensure freedom of movement throughout Kosovo.

55. In contrast to the previous reporting period, during the current period there was only limited progress in the European Union-facilitated dialogue between Pristina and Belgrade, largely as a result of the developments in the north. It is regrettable that the dialogue process appears to have come to a standstill since the last session, which was held at the beginning of September. While it is positive that an agreement was reached on the Kosovo Customs stamps and that trade flows between Kosovo and Serbia have resumed, it is of concern that the current deadlock regarding the regime at the northern gates continues to hamper the smooth continuation of the dialogue process. Furthermore, the implementation of some of the agreements reached in earlier dialogue sessions also appears to be unsatisfactory, as the implementation working groups have made little progress thus far.

56. In the light of the above, I call upon Pristina and Belgrade, as well as the communities on the ground, to act with restraint and patience and continue to show confidence in the dialogue. I am encouraged by recent efforts made by the sides to moderate the level of rhetoric regarding the north, and reiterate my position that it rests with the sides to demonstrate their full commitment to dialogue and reconciliation rather than resorting to unilateral action, violence or the use of force. I will continue to firmly stress that sensitive issues relating to northern Kosovo can be resolved only through peaceful means, taking into account the views of the communities on the ground.

57. It is also my hope that the members of the Security Council will send a clear message to both Pristina and Belgrade to take responsibility for lessening tensions and preventing the recurrence of violence in northern Kosovo. Our priority goal should be to continue creating conditions for the peaceful resolution of long-standing issues. I would therefore like to urge all sides to facilitate the resumption of dialogue and I stress that the United Nations remains committed to supporting any efforts to create the appropriate conditions in this regard.

58. In October, I appointed Farid Zarif of Afghanistan to succeed Lamberto Zannier of Italy as my Special Representative for Kosovo and Head of UNMIK. I have full confidence in Mr. Zarif's leadership and in his ability to engage with all sides, as demonstrated during his deployment to UNMIK as my Acting Special Representative during the months of August and September. I call on all stakeholders to extend to him their full support and cooperation. I would also like to commend the staff of UNMIK for their work and their continuing commitment to the goals of the United Nations.

59. I would like to conclude by extending my gratitude to the long-standing partners of the United Nations in Kosovo — the European Union, NATO and OSCE — as well as to the United Nations agencies, funds and programmes, for their ongoing support and cooperation with UNMIK.

Annex I

Report of the European Union High Representative for Foreign Affairs and Security Policy to the Secretary-General on the activities of the European Union Rule of Law Mission in Kosovo

(covering the period from 16 July to 15 October 2011)

1. Summary

12 October 2011

The European Union Rule of Law Mission in Kosovo (EULEX) continued to implement its mandate to monitor, mentor and advise Kosovo institutions amid serious security-related developments, including occasional outbursts of violence in the mainly Kosovo Serb north of Kosovo. Reciprocity measures implemented by the government of Kosovo against Serbia and Bosnia and Herzegovina late in July in response to a long-standing embargo by both countries against products originating from Kosovo led to a series of security incidents of concern to the Mission, requiring it to deploy additional police units to the north while continuing to advocate the resolution of disagreements through the ongoing dialogue process. Subsequent agreements reached between Pristina and Belgrade have involved EULEX in facilitating, inter alia, the implementation of the mutually recognized Customs stamps scheme. The follow-up of this process has entailed further security challenges in the form of barricades, protests and occasional acts of violence in the north. While the Mission's attention remained focused on the north of Kosovo, it has continued its broader activities of supporting the consolidation and reform of the rule-of-law institutions of Kosovo, as well as carrying out high-profile investigations and the prosecution of persons involved in war crimes, corruption and organized crime.

2. EULEX activities, July to October 2011

General

EULEX currently comprises 2,780 staff members (1,598 international and 1,182 local). Monitoring, mentoring and advising in support of Kosovo institutions remains the Mission's main function and constitutes the major part of its everyday activities, although the executive functions of the Mission, which regularly attract greater public attention, are made use of, when necessary.

In a report submitted in August, the Mission detailed progress in providing monitoring, mentoring and advising to Kosovo rule-of-law institutions over the past two years, inter alia, by measuring a series of technical benchmarks against baselines set in 2009. The Kosovo police was found to have achieved notable success in assuming more tasks and undergoing a well-planned organizational restructuring, while the Kosovo Customs maintained a good level of performance and continued to modernize its procedures with EULEX assistance. On 19 September, the European Union-compatible Border Management System began

operating throughout Kosovo, marking the culmination of cooperative efforts between EULEX, the European Commission and Kosovo border police to modernize border controls and improve safety and security at Kosovo's entry points. The Kosovo justice system is continuing its consolidation and reform; laws of critical importance for completing Kosovo's justice infrastructure have been adopted, and progress continues on building the competence and reinforcing the independence of the Kosovo Judicial Council and the Kosovo Prosecutorial Council. More recently, EULEX has started a project for supporting the five-year information technology strategy of the Kosovo Judicial Council to implement more efficient electronic case management systems for Kosovo courts. EULEX prosecutors have also conducted closer one-to-one mentoring meetings with local counterparts to help improve the effectiveness and scope of cooperation and advice. The Mission has provided input critical for securing the passage of new laws by the Kosovo Assembly.

The north of Kosovo

During the reporting period a number of incidents occurred in the north of Kosovo, with Serbian-backed structures determined to resist any moves seen as acknowledging the authority of Pristina-based institutions. An ongoing source of tension from April to July involved the rotation of Kosovo police commanders at stations and gates in the north and the suspension and subsequent dismissal of Kosovo Serb officers refusing to obey such orders from the Kosovo police leadership in Pristina. The issue of the police commanders remains unresolved.

On 20 July, the government of Kosovo issued a decision on Customs reciprocity measures against Serbia and Bosnia and Herzegovina, banning the import of goods with Serbian Customs stamps while levying a 10 per cent tax on goods imported from Bosnia and Herzegovina. Bosnia and Herzegovina levied and continues to levy a tax of 10 per cent, and Serbia has banned the import of Kosovo goods since 2008. Kosovo Customs authorities began to implement the policy immediately at border/boundary crossing points throughout Kosovo, with the exception of the EULEX-manned Gates 1 and 31 in the north. On 25 July, Pristina authorities unilaterally decided to send Kosovo Police Special Regional Operations Units to Gates 1 and 31 to enforce the Customs regulations of their own accord, an action leading to protests, roadblocks and exchanges of gunfire between Kosovo police units and Kosovo Serbs, resulting in injuries on both sides and the death of a Kosovo police officer. As EULEX worked with the European Union Special Representative and the Commander of the Kosovo Force (KFOR) to manage the security situation and communicate with local representatives in the north, Kosovo officials and Belgrade, security conditions continued to deteriorate. On 27 July, a mob of Kosovo Serbs overran and burned down Gate 1, further inflaming the situation and prompting KFOR to take military control of the gates on a temporary basis.

Throughout this period of increased confrontation, EULEX advocated using the Pristina-Belgrade dialogue as a means to resolve the trade dispute, while proceeding on the understanding that Kosovo is defined as a single Customs space, both in the regulations of the Special Representative of the Secretary-General, in accordance with Security Council resolution 1244 (1999), and in the report of the Secretary-General to the Security Council of 24 November 2008 (see S/2008/692, para. 35) and the letter to the President of Serbia, Boris Tadić, of 12 June 2008

(S/2008/354). On 2 September, Belgrade and Pristina agreed, in the framework of the European Union-sponsored dialogue, that Belgrade would recognize the existing Kosovo Customs stamp, with Kosovo dropping its own embargo on Serbia-stamped goods in return (Bosnia and Herzegovina also ended its ban on Kosovo-stamped goods). The temporary occupation by KFOR of Gates 1 and 31 expired on 16 September, after which EULEX, as part of its technical rule-of-law mandate, redeployed to the gates together with a small number of Kosovo police and Customs staff and with a significant KFOR presence to ensure a safe and secure environment. The deployment remains in place, with Gates 1 and 31 open to traffic with Serbia and the perimeter of the gate areas protected by KFOR. However, freedom of movement continues to be hampered by a series of roadblocks deployed by local actors in the north of Kosovo, who are opposed to the implementation of the Pristina-Belgrade agreement and are blocking both the gates and other key access routes in and out of the north and occasionally clashing with KFOR and EULEX personnel.

The Head of Mission of EULEX has consistently stressed that acts of violence are unacceptable and will be investigated and prosecuted by the Mission. EULEX maintains a strong police presence at the gates and continues to conduct patrols in the north wherever physically possible, while pushing forward criminal investigations related to the burning of Gate 1 and to incidents of violence and intimidation as they occur. Mitrovicë/Mitrovica District Court continues to hear cases.

War crimes

EULEX continued to carry out investigations and prosecutions in cases involving war crimes, with indictments and verdicts delivered in the trials of several high-profile suspects. The so-called "Geci" trial, which began in March under the direction of the Mitrovicë/Mitrovica District Court, ended on 29 July with a panel of EULEX and local judges pronouncing the defendants guilty and handing down prison terms of 6 to 15 years (a sentence of 15 years was given to the main defendant, Sabit Geci). Based on evidence of the murder and mistreatment of prisoners in a Kosovo Liberation Army (KLA) prison camp in Albania during the Kosovo conflict of 1998 and 1999, the defendants were found to have perpetrated war crimes. Key video testimony provided through anonymous video links facilitated by the EULEX Witness Security Unit proved very useful to the case, as did the Mission's jurisdiction for crimes committed in Albania.

EULEX also continued to pursue the investigation of the former Minister of Transport and Telecommunications, Fatmir Limaj, together with nine other former KLA members arrested in March. The suspects are believed to have committed war crimes in Kosovo in 1999, in an improvised prison, where detainees were subjected to inhumane conditions, torture and beatings that in some cases led to their death. On 25 July, EULEX prosecutors in the Special Prosecution Office of Kosovo filed an indictment against the group, with a EULEX judge from the Pristina District Court confirming the indictment on 26 August and sending the case to trial beginning on 9 November. Following inquiries by the Mission as to the immunity from arrest of Kosovo Assembly members, the government of Kosovo referred the issue to the Kosovo Constitutional Court, which ruled on 20 September that neither members of parliament, nor the Prime Minister or other members of the government are immune from criminal prosecution for actions taken outside the scope of their

duties, and that they can be arrested or detained. The decision made it possible for EULEX to pursue the case without having to deal with an immunity claim by Fatmir Limaj, who was duly placed under house arrest on 22 September. Agim Zogaj, a witness in the case, was found dead in Germany on 28 September, suicide being the cause of death according to the German authorities.

On 29 August 2011, EULEX announced that Clint Williamson of the United States of America had been selected lead prosecutor for the renamed Special Investigative Task Force. He would take up his duties on 17 October 2011. The Task Force is continuing the preliminary investigation launched by EULEX on 27 January 2011 into the allegations contained in the report of the Special Rapporteur of the Council of Europe, Dick Marty, entitled "Investigation of allegations of inhuman treatment of people and illicit trafficking in human organs in Kosovo". The Task Force, which consists of international staff only, is located in Pristina and Brussels.

Corruption

EULEX continued its work to identify, prioritize and prosecute in major cases of corruption in cooperation with its Kosovo counterparts. In mid-July, a mixed panel of Kosovo and EULEX judges at the Kosovo Supreme Court confirmed the November 2010 conviction and sentence of Nexhat Daci, former President of the Kosovo Assembly, who had appealed his conviction by the Pristina District Court. On 5 October, EULEX conducted a major search-and-arrest operation relating to an investigation of fraud in procurement procedures targeting the Kosovo police, led by a EULEX prosecutor in the Special Prosecution Office of Kosovo. Six persons were arrested, including business employees, officers from the Kosovo police administration and two employees of the Ministry of Internal Affairs. The searches and arrests were authorized by a EULEX pretrial judge and supported by the Ministry of Internal Affairs and the Kosovo police.

In a case pursued in parallel to the war crimes case mentioned above, corruption investigations involving the former Minister of Transport and Telecommunications, Fatmir Limaj, proceeded, with prosecutors of the Special Prosecution Office of Kosovo interviewing him on 20 and 21 September and on 10 and 12 October.

In addition to carrying out high-profile investigations, the Mission continued to provide monitoring, mentoring and advisory support to Kosovo institutions. EULEX continued the 12-month training and workshop programme for Kosovo and EULEX judges it had begun on 28 June, instructing Kosovo prosecutors and investigators on the confiscation of criminal assets. The programme aims to make the use of existing legal confiscation powers a standard tool in the fight against organized crime and corruption, while preparing the way for the implementation of new legislation in the area. In September, the Mission organized a round-table discussion on the impact of corruption on the lives of women, with the participation of the EULEX Head of Mission, Kosovo government ministers and officials, and representatives of the United Nations Entity for Gender Equality and the Empowerment of Women and non-governmental organizations.

Organized crime

The nine defendants in the so-called *Medicus* case, originally initiated by Kosovo and UNMIK police officers in November 2008, who were indicted in June at the Pristina District Court, went on trial on 4 October facing charges related to trafficking in humans and organs, organized crime, unlawful exercise of medical activity and abuse of official position. Testimony by the protected witness known as "AK" was heard on 5 October, and the trial continues. Trials and investigations also continued against defendants charged with, inter alia, organized crime and the smuggling of migrants, with EULEX judges and prosecutors participating.

Investigations and judicial actions into organized crime activities have also continued in the north of Kosovo, despite the presence of barricades, occasional protests and other obstacles to the freedom of movement. Judges at the Mitrovicë/Mitrovica courthouse have issued pretrial decisions on the extension of investigations and extended the detention of a suspect under investigation for the smuggling of goods.

Approved by Xavier Bout de Marnhac
Head of Mission

Annex II

Composition and strength of the police component of the United Nations Interim Administration Mission in Kosovo

(as at 15 October 2011)

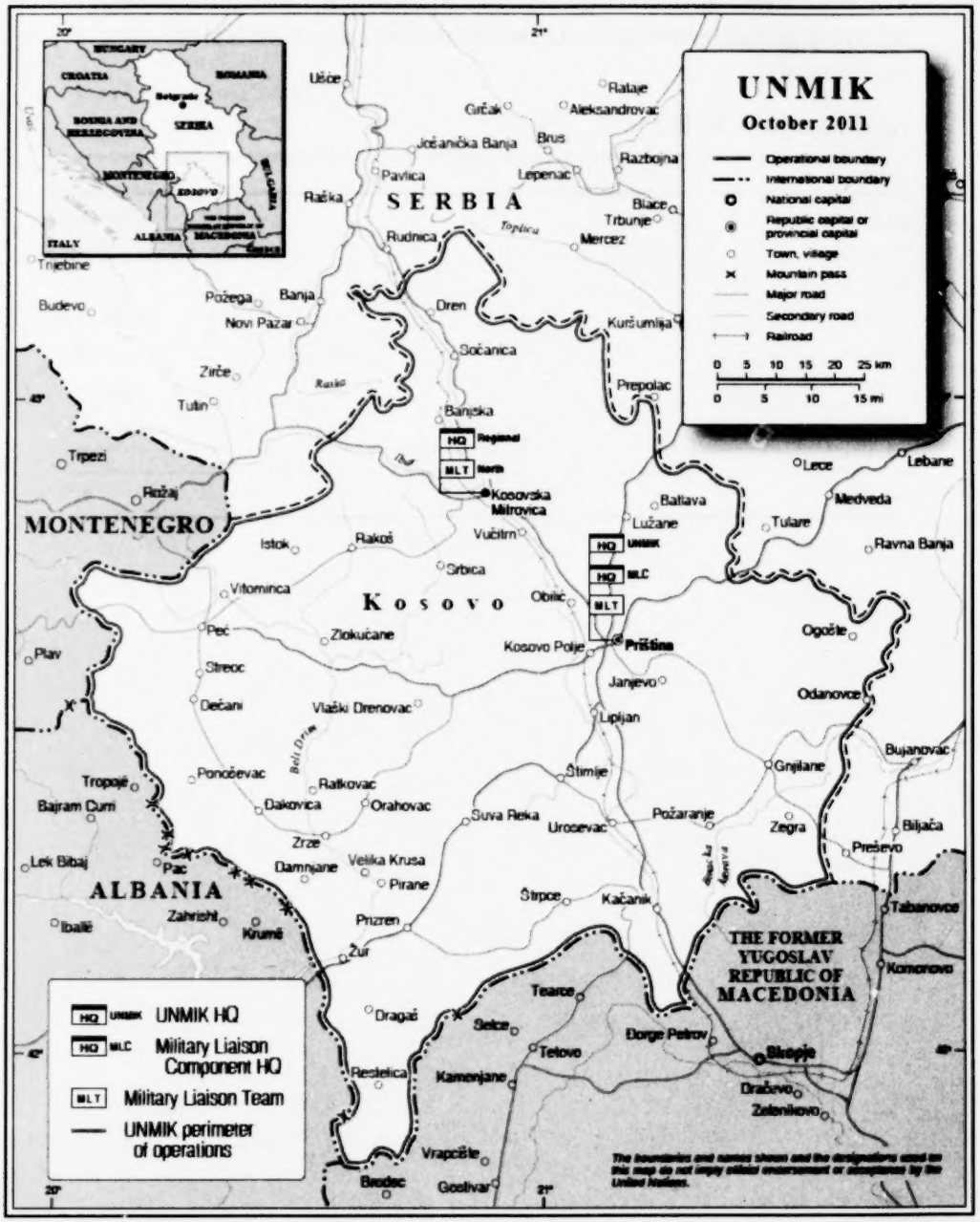
Country	*Number*
Germany	1
Ghana	1
Italy	1
Turkey	1
Romania	1
Pakistan	1
Ukraine	1
Total	**7**

Annex III

Composition and strength of the military liaison component of the United Nations Interim Administration Mission in Kosovo

(as at 15 October 2011)

Country	*Number*
Czech Republic	1
Denmark	1
Norway	1
Poland	1
Portugal	1
Romania	1
Spain	1
Ukraine	2
Total	**9**


UNMIK
October 2011
Operational boundary
International boundary
National capital
Republic capital or provincial capital
Town, village
Mountain pass
Major road
Secondary road
Railroad
0 5 10 15 20 25 km
0 5 10 15 mi
SERBIA
MONTENEGRO
Kosovo
ALBANIA
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA
Kosovska Mitrovica
Priština
Peć
Prizren
Uroševac
Gnjilane
Kosovo Polje
Lipljan
Janjevo
Štimlje
Suva Reka
Orahovac
Dakovica
Ratkovac
Ponoševac
Dečani
Vaški Drenovac
Klina
Srbica
Vučitrn
Istok
Rakoš
Vitomirica
Ziokučane
Streoc
Tropoje
Bajram Curri
Lek Bibaj
Pac
Zahrisht
Krumë
Zur
Dragaš
Restelica
Kamenjane
Vrapčište
Brodec
Gostivar
Tearce
Selce
Tetovo
Dorge Petrov
Skopje
Dražovo
Zelenikovo
Tabanovce
Komanovo
Preševo
Bujanovac
Medveda
Lebane
Lece
Ravna Banja
Ogošte
Odanovce
Požarenje
Zegra
Biljača
Kačanik
Štrpce
Orlovo
Ugljare
Lužane
Batlava
Tuzare
Kuršumlija
Prepolac
Mercez
Tribunje
Blace
Lepenac
Brus
Aleksandrovac
Rataje
Razbojna
Jošanička Banja
Pavlica
Raška
Rudnica
Toplica
Dren
Sočanica
Banjska
Zvečan
Zvečanska
Zubin Potok
Leposavić
Kosovska Kamenica
Gračanica
Obilić
Glogovac
Klokot
Vrbovac
Kamenica
Novo Brdo
Gnjilane
Vitina
Štrpce
Kosovska Mitrovica
Zubin Potok
Leposavić
Zvečan
Zvečanska
Kosovska Kamenica
Gračanica
Obilić
Glogovac
Klokot
Vrbovac
Kamenica
Novo Brdo
Vitina
Štrpce
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Toplica
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Banjska
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Zvečanska
Zubin Potok
Leposavić